

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

09104-055

(Inmate Number)

Neal Benjamin

(Name of Plaintiff)

Federal Correctional Complex Allenwood-Low
PO Box 1000/White Deer, PA 17887

(Address of Plaintiff)

4:19-CV-1056
(Case Number)

COMPLAINT

vs.

U.S. Sentencing Commission

(Names of Defendants)

FILED
SCRANTON
JUN 21 2019
PER [Signature] DEPUTY CLERK

TO BE FILED UNDER: 42 U.S.C. § 1983 - STATE OFFICIALS
28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:
In the United States District Court for the Northern District of West Virginia
(ELKINS)/Civil Action No. 2:18 CV-26 (Judge Bailey)

II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?
Yes X No

- B. Have you filed a grievance concerning the facts relating to this complaint?
Yes X No

If your answer is no, explain why not This lawsuit is against the US Sentencing Commission.

- C. Is the grievance process completed? Yes No

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

A. Defendant Mrs. Smith is employed
as D.D.S at FCI Gilmer

B. Additional defendants N/A

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. The United States Sentencing Commission promulgated law namely (First Step
Act of 2018) that prevents Plaintiff from equal treatment for sentencing
relief for crack cocaine that violates Plaintiff's Equal Protection Rights
under the Fifth Amendment.

(See attached)

2. The First Step Act, unequal crack cocaine treatment law holds Plaintiff
under the old crack cocaine racially discriminatory sentencing regime that
is a violation of Plaintiff's Equal Protection rights under the Fifth
Amendment.

3. _____

IV. Statement of Claim
ATTACHMENT (Continued)

#1) The First Step Act of 2018 expressly provides sentencing relief for Defendant subject to Mandatory Minimum crack cocaine penalties pursuant to 21 USC §841(b)(1)(A) and 841(b)(1)(B), but no relief for penalties pursuant to 21 USC §841(b)(1)(c).

97-CR-133

1. Plaintiff was convicted and sentenced in the Western District Court of Buffalo, New York. Plaintiff was convicted of Counts 1 and 3, charging Conspiracy to Possess with Intent to Distribute Cocaine Base, Cocaine and Marijuana. The quantities of the drugs were not submitted to the jury.

2. Count 3 charged that Plaintiff did Knowingly Possess with Intent to Distribute a Quantity of Cocaine Base. Of great importance; the jury did not determine the quantity of drug.

3. The PSR proposed a base offense level based upon the officer estimate from 1994 to 1997, the amount of cocaine base. His estimate was 14 kilograms and set the base offense level at 38. Plaintiff was sentenced for both counts for a total of 30 years under 21 USC §841(b)(1)(c), on drug quantity alone. Plaintiff has now been incarcerated for 22 years to date. The First Step Act gives no relief to Plaintiff because his jury did not find him guilty for a drug amount. Namely 5 grams or more or 50 grams or more of cocaine base. Plaintiff must remain with no sentence relief for an estimation of 14 kilograms of cocaine base.

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. A. Plaintiff asks this Court to Order the United States Sentencing Commission
to enact an emergency amendment to the First Step Act for Defendant's
sentence to larger amount of crack cocaine under 21 USC §841(b)(1)(c).
for sentencing relief.

B. \$1,000,000 dollars in damages to be paid to Plaintiff by the
United States Sentencing Commission for violating his Equal Protection Rights
under the Fifth Amendment.

2. \$1,000,000 dollars in damages to be paid to Plaintiff by the United States
Sentencing Commission for racial discrimination.

Signed this Neal Benji day of June 18, 2019.

Neal Benji
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

6-8-2019
(Date)

Neal Benji
(Signature of Plaintiff)

Neal Benjamin #09104-055
Federal Correctional Complex - Allenwood - Torco

P.O. Box 1000

White Deer, PA 17887



Low Security Correctional Institution

Allenwood, PA 1

Date 6/19/19

The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to request material for further information or clarification. If the writer encloses correspondence for forwarding to another address, please return the enclosure to the above address.

↔09104-055↔

Peter J Welsh
235 N Washington AVE
Scranton, PA 18501
United States

(Legal Mail)